IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

Crl.MC.No. 3074 of 2007()

CC.36/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-V, TRIVANDRUM

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PETITIONER/2ND ACCUSED :

MOHANAN, S/O.KUNJU KRISHNAN,
AGED 54 YEARS,
KATTUVILAPUTHEN VEEDU,
THOTTAKKAD DESOM

BY ADV. SRI.P.M.HABEEB

RESPONDENT:

STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3074 of 2007

Dated this the 5th day of October 2007

O R D E R

The petitioner is the second accused in a crime registered for offences punishable under Sections 447 and 427 read with 34 I.P.C. All offences alleged are bailable. Investigation is complete. Final report was filed. Cognizance was taken. The petitioner had also entered appearance and was enlarged on bail. The petitioner did not appear before the learned Magistrate after the trial progressed to a certain extent. Trial against the co-accused continued. They have been found not guilty and acquitted. The case against the petitioner has been split up and refiled. Coercive processes have been issued against the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate to procure his presence chasing him.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007